Appeal No. 96 of 1904-05.

Appellant	*Versus.*	Respondent
Basalingavva (widow of Basalingappa junior)		Mallappa (son of Basalingappa senior).

Subject.

Appeal against the order of the Deputy Commissioner of the Shimoga District, declining to allow the claim of the appellant urged on behalf of her minor (adopted) son Basavannaiya, to the pateli office of Tadasanahalli village in the Shikarpur Taluk, and directing that the respondent should continue to do the duties thereof until evicted by an order of a competent court.

The facts of the case appear sufficiently from the following :—

Decision.

The village in question had long had two patels apparently unconnected with each other. At the time of the potgi settlement, which took place in 1886, it was found that the two patels both named Basalingappa held the office by turns of two years each. Basalingappa senior, then in actual possession, was confirmed with a direction that on his death he should be succeeded by the other Basalingappa or his rightful heir. The former held the office until 1898, when at his instance it was transferred to his son, the respondent. He survived the transfer for three years and then died in 1901. Basalingappa junior, who was to succeed him under the order of 1886 had predeceased him. His widow, the appellant, claimed the office on behalf of her alleged adopted son Basavannaiya. The Deputy Commissioner, however, rejected the claimon the ground that he was unable to modify his predecessor's order of 1898, giving the pateli absolutely to the respondent. Hence this appeal.

2. Basalingappa junior, had two sons, both of whom died very young. His widow is shown to have adopted Basavannaiya under an authority given to her by him. The Deputy Commissioner finds in favor of the factum and validity of the adoption. In this finding Government fully concur.

3. But for the transfer of 1898, to which the appellant was not a party and by which therefore neither her husband nor his heir could be prejudicially affected, Basavannaiya would be entitled to step in on the death of Basalingappa senior, which, as observed above, occurred in 1901. The arrangement of 1886 contemplated alternate life-long possession first, by Basalingappa senior, then by Basalingappa junior or his heir, then again by the former's heir and so on. But the trend of recent decisions prefers a periodical rotation to life-term turns; and Government are disposed to follow it in the present case. With this slight modification, Government see no reason why the claims of both the hakdars should not be recognized and given effect to as distinctly decided at the settlement of 1886.

4. In reversal, therefore, of the Deputy Commissioner's order, Government direct that the appellant's son Basavannaiya's right to a participation in the pateli in question be admitted, and that the office be held by both parties by turns of ten years each, Basavannaiya having his first turn as soon as he attains his majority and is found duly qualified.

No. R. 12159—MIS. 328-04-6, DATED BANGALORE, 22ND MARCH 1906.

Copy of the above is forwarded to the Deputy Commissioner of the Shimoga District, together with the records received with his letter No. 618—450, dated the 14th December 1905.

B. K. VENKATA VARADA IYENGAR,

Secy. to Govt., Gen. & Rev. Dept.